UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,477	01/15/2002	Yasumasa Nakajima	MIPFP001	3715

25920 7590 03/23/2006

MARTINE PENILLA & GENCARELLA, LLP
710 LAKEWAY DRIVE
SUITE 200
SUNNYVALE, CA 94085

EXAMINER	
QUIETT, CARRAMAH J	
ART UNIT	**PAPER NUMBER**
2622	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/053,477	NAKAJIMA ET AL.	
	Examiner	Art Unit	
	Carramah J. Quiett	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-39,58 and 59* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *6-10 and 32-35* is/are allowed.

6)☒ Claim(s) *1-5,11-31,36-39,58 and 59* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *15 January 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *01/23/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment(s), filed on 12/27/2005, have been entered and made of record. Claims 1-39, 58 and 59 are pending.

2. The amendment to the title of the invention is now *acceptable*.

3. The information disclosure statement (IDS), filed on 01/23/2006, has been placed in the application file, and the information referred to therein has been considered as to the merits.

Response to Arguments

4. Applicant's arguments filed 12/27/2005 have been fully considered but they are not persuasive.

The Applicant traverses the rejection of claims 1-4, 6-9, 11-14, 16-18, 20-22, 24-26, 28-30, 32-34, 36-38, 58 and 59 under 35 U.S.C. 102(e) as being anticipated by Nakatsuka (U.S. Pat. #6,229,625) from the previous Office Action (mail date: 9/22/2005).

Particularly, the Applicant argues that Nakatsuka does not teach the each and every limitation of claim 1, which includes a graphics data generating device, an imaging device configured to generate graphics, a selection mechanism configured to enable a selection of a generation of a condition, and an acquisition mechanism configured to acquire graphics processing control parameters. The Examiner respectfully disagrees. Nakatsuka does teach each and every limitation (and feature) as recited in claim 1.

In the Remarks, the Applicant asserts that image reading device 10 of Nakatsuka is not the graphics data generating device of claim 1, and the image reading device is incapable of

specifying conditions for the image processing to be carried by the image processing apparatus, which, in accordance with conventional techniques, adjusts only parameters. Respectfully, the Examiner disagrees. Nakatsuka illustrates a graphics data generating device, which is an image processing system in fig. 1. This includes Nakatsuka's imaging device (image reading device 10), selection mechanism (32, 34, 36), and acquisition mechanism (20). As admitted by the Applicant, the image reading device (10) is a scanner or a digital camera (col. 4, lines 59-67). Inherently, scanners and digital cameras are configured to generate graphics data as claimed in claim 1.

As for the selection mechanism, the Applicant argues that there is no disclosure in the Nakatsuka reference of a selection condition, e.g., a shooting condition. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a shooting condition) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner respectfully disagrees with the Applicant's remarks stating that the Nakatsuka reference makes no mention of acquiring graphics processing control parameters based on the selected generation condition. In col. 6, lines 4-40, Nakatsuka teaches that the image processing apparatus executes the software to realize (another word for "acquire") the signals for controlling the components contained therein.

Lastly, the Examiner respectfully disagrees with the Applicant's remarks stating that the image processing apparatus of Nakatsuka does not have to output graphics data together with

related graphics processing control parameters and, as such, the Nakatsuka reference provides no disclosure of a data output mechanism configured to relate generated graphics data to acquired graphics processing control parameters. In col. 6, lines 41-52, Nakatsuka teaches that the image conversion unit 102 carries out color separation that adjusts the image data stored in the frame memory based on the image processing parameters.

In response to the Applicants remarks regarding independent claims 11, 16, 24, 28, 36, 58, and 59, please refer to the Examiners comments regarding claim 1 above. Accordingly, claims 1-4, 11-14, 16-18, 24-26, 28-30, 36-38, 58 and 59 remain rejected under 35 U.S.C. 102(e) as being anticipated by Nakatsuka (U.S. Pat. #6,229,625).

5. Applicant's arguments, see Remarks, filed 12/27/2005, with respect to the rejection(s) of claim(s) 20-23 under 35 U.S.C. 102(e) as being anticipated by Nakatsuka (U.S. Pat. #6,229,625) and under 35 U.S.C. 103(a) as being unpatentable over Nakatsuka (U.S. Pat. #6,229,625) in view of Takemura (U.S. Pat. #6,657,658) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Takemura (U.S. Pat. #6,657,658).

With respect to claim 20, which has a means-plus-function format, the Takemura (6,657,658) teaches the limitations which are claimed and presented in the disclosure of the Applicant. Please read Takemura columns 7-8. A comparison of the Takemura reference and the Applicant's disclosure is listed below:

Limitations In Claim 20	**Takemura – Figure 6**	**Applicant – Figure 2**
Means for generating said graphics data;	Image taking means/CCD (103)	Optical Circuit/CCD (121)
Means for designating a generation condition	Finish setting	Select button (126)

when said means for generating generates said graphics data;	means/Setting keys (103)/figs. 2-5, ref. 13a/b	
Means for generating said graphics processing control parameter set based on said generation condition;	Finish setting means (103)	Image processing circuit (123)
Means for relating said graphics data to said graphics processing control parameter set, and outputting the related graphics data.	Attaching means (104)	Control Circuit (124)

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1-4, 11-14, 16-18, 24-26, 28-30, 36-38, 58 and 59** are rejected under 35 U.S.C. 102(e) as being anticipated by Nakatsuka (U.S. Pat. #6,229,625).

For **claim 1**, Nakatsuka discloses a graphics data generating device (fig. 1) for generating graphics data that is related to a graphics processing control parameter designating a graphics processing condition for graphics data, said graphics data generating device comprising:

an imaging device (10) configured to generate said graphics data (col. 4, line 59 – col. 5, line 7);

a selection mechanism (32, 34, 36) configured to enable a selection of a generation condition (image character information – fig. 2, col. 6, lines 4-40) when said imaging device generates said graphics data (col. 5, lines 30-43);

a memory (26, 28, 38, 40) configured to store a plurality of combinations, each combination composed of said generation condition and a plurality of said graphics processing control parameters (col. 5, lines 30-58);

an acquisition mechanism (20) configured to acquire said plurality of graphics processing control parameters for said designated generation condition (col. 6, lines 4-40); and

a data output mechanism (fig. 2, ref. 102) configured to relate said generated graphics data to said plurality of acquired graphics processing control parameters, and output the generated graphics data (col. 6, lines 41-52).

For **claim 2**, Nakatsuka discloses a graphics data generating device further comprising: a processor (fig.1, ref. 20/fig. 2) configured to modify a value of any graphics processing control parameter among said plurality of acquired graphics processing control parameters (col. 6, lines 4 – col. 7, line 7).

For **claim 3**, Nakatsuka discloses a graphics data generating device wherein said graphics processing condition is a condition for an output device that will output said graphics data (col. 5, lines 30-43; col. 6, line 66 – col. 7, line7).

For **claim 4**, Nakatsuka discloses a graphics data generating device wherein said graphics processing control parameters include at least parameters relating to color space, gamma correction value, contrast, brightness, color balance, saturation, sharpness, color cast, and noise elimination (col. 7, line 56 – col. 8, line 5).

Regarding **claim 11,** this claim is a method claim corresponding to an apparatus claim 1. Therefore, method claim 11 is analyzed and rejected as previously discussed with respect to claim 1.

Regarding **claims 12-14**, these claims are method claims corresponding to the apparatus claims 2-4, respectively. Therefore, method claims 12-14 are analyzed and rejected as previously discussed with respect to claims 2-4, respectively.

For **claim 16**, Nakatsuka discloses a graphics data generating device (fig. 1) for generating graphics data that is related to a graphics processing control parameter set composed of a plurality of graphics processing control parameters designating a graphics processing condition for the graphics data, said graphics data generating device comprising:

an imaging device (10) configured to generate said graphics data (col. 4, line 59 – col. 5, line 7);

a selection mechanism (32, 34, 36) configured to enable a selection of a generation condition (image character information – fig. 2, col. 6, lines 4-40) when said imaging device generates said graphics data (col. 5, lines 30-43); and

a processor (fig.1, ref. 20/fig. 2) configured to generate said graphics processing control parameter set based on said generation condition, to relate said graphics data to said graphics processing control parameter set, and output the related graphics data (col. 5, lines 30-43; col. 6, lines 4 – col. 7, line 7).

Regarding **claims 17-18**, these claims are apparatus claims corresponding to the apparatus claims 3-4, respectively. Therefore, apparatus claims 17-18 are analyzed and rejected as previously discussed with respect to claims 3-4, respectively.

Regarding **claim 24,** this claim is a method claim corresponding to an apparatus claim 16. Therefore, method claim 24 is analyzed and rejected as previously discussed with respect to claim 16.

Regarding **claims 25-26**, these claims are method claims corresponding to the apparatus claims 3-4, respectively. Therefore, method claims 25-26 are analyzed and rejected as previously discussed with respect to claims 3-4, respectively.

For **claim 28**, Nakatsuka discloses a graphics data generating device (fig. 1) for generating graphics data that is related to graphics processing control information designating a graphics processing condition for graphics data, said graphics data generating device comprising:

an imaging device (10) configured to generate said graphics data (col. 4, line 59 – col. 5, line 7);

a selection mechanism (32, 34, 36) configured to enable a selection of a generation condition (image character information – fig. 2, col. 6, lines 4-40) when said imaging device generates said graphics data (col. 5, lines 30-43);

a memory (26, 28, 38, 40) configured to store a plurality of sets of said graphics processing control information, the graphics processing control information specifying a graphics processing control parameter set to be used for image processing of said graphics data, under said generation condition (col. 3, line 44 – 47; col. 5, line 30 – col. 6, line 3);

an acquisition mechanism (20) configured to acquire said graphics processing control information for said designated generation condition (fig. 2; col. 6, lines 4-40); and

a data output mechanism (24, 30, 42) configured to relate said generated graphics data to said acquired graphics processing control information, and output the related graphics data (col. 5, lines 30-43).

Regarding **claims 29-30**, these claims are apparatus claims corresponding to the apparatus claims 3-4, respectively. Therefore, apparatus claims 29-30 are analyzed and rejected as previously discussed with respect to claims 3-4, respectively.

Regarding **claim 36,** this claim is a method claim corresponding to an apparatus claim 28. Therefore, method claim 36 is analyzed and rejected as previously discussed with respect to claim 28.

Regarding **claims 37-38**, these claims are method claims corresponding to the apparatus claims 3-4, respectively. Therefore, method claims 37-38 are analyzed and rejected as previously discussed with respect to claims 3-4, respectively.

For **claim 58**, Nakatsuka discloses a computer-executable program for generating graphics data that is related to a graphics processing control parameter designating a graphics processing condition for graphics data (col. 5, line 30 – col. 6, line 3), wherein said computer-executable program implements functions comprising:

generation of said graphics data (col. 4, line 59 – col. 5, line 7);

designation of a generation condition (image character information – fig. 2, col. 6, lines 4-40) during generation of said graphics data (col. 5, lines 30-43);

storage of a plurality of combinations, each combination being composed of said generation condition and a plurality of said graphics processing control parameters (col. 5, lines 30-58);

acquisition of said plurality of graphics processing control parameters for said designated generation condition (fig. 2; col. 6, lines 4-40);

relation of the graphics data to said plurality of acquired graphics processing control parameters; and output of the related graphics data (col. 5, lines 30-43).

For **claim 59**, Nakatsuka discloses a computer-executable program for generating graphics data that is related to graphics processing control information designating a graphics processing condition for graphics data (col. 5, line 30 – col. 6, line 3), wherein said computer-executable program implements functions comprising:

generation of said graphics data (col. 4, line 59 – col. 5, line 7);

designation of a generation condition (image character information – fig. 2, col. 6, lines 4-40) during generation of said graphics data (col. 5, lines 30-43);

storage (26, 28, 38, 40) of a plurality of sets of said graphics processing control information, the information specifying a graphics processing control parameter set to be used for image processing of said graphics data, under said generation condition (col. 3, line 44 – 47; col. 5, line 30 – col. 6, line 3);

acquisition of said graphics processing control information for said designated generation condition (fig. 2; col. 6, lines 4-40);

relation of said graphics data to said graphics processing control information; and output of the related graphics data (col. 5, lines 30-43).

7. **Claims 20-23** are rejected under 35 U.S.C. 102(e) as being anticipated by Takemura (U.S. Pat. #6,657,658).

As for **claim 20**, Takemura discloses a graphics data generating device (figs. 2-6, ref. 1) for generating graphics data being related to graphics processing control parameter set composed

of a plurality of graphics processing control parameters designating a graphics processing condition for the graphics data (col. 7, line 8 – col. 8, line 50), said device comprising:

means (101) for generating said graphics data (col. 8, lines 23-32);

means (103) for designating a generation condition when said means for generating generates said graphics data. Also, please see figs. 2-5, ref. 13a/b;

means (103) for generating said graphics processing control parameter set based on said generation condition (col. 8, lines 10-43); and

means (104) for relating said graphics data to said graphics processing control parameter set, and outputting the related graphics data (col. 8, lines 10-43).

For **claim 21**, Takemura discloses a graphics data generating device, wherein said graphics processing condition is a condition for an output device (fig. 6, ref. 2) that will output said graphics data (transferring the data via a data taking means – fig. 6, ref. 301; col. 8, lines 57-67).

For **claim 22**, Takemura discloses a graphics data generating device, wherein said graphics processing control parameters include at least parameters relating to color space, gamma correction value, contrast, brightness, color balance, saturation, sharpness, color cast, and noise elimination (col. 7, lines 29-40 and col. 8, lines 10-22).

For **claim 23**, Takemura discloses a graphics data generating device, wherein said graphics data generating device is a photographic device (figs. 1-6, ref. 1; col. 7, lines 8-18); and said generation condition is a picture mode in said photographic device (col. 8, lines 10-22).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. **Claims 5, 15, 19, 27, 31, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakatsuka (U.S. Pat. #6,229,625) in view of Takemura (U.S. Pat. #6,657,658).*

***Note:** In the previous Office Action, the Examiner recorded the incorrect U.S. Patent Number for the Takemura reference. Accordingly, corrections have been made to the present Office Action.

For **claim 5**, Nakatsuka discloses a graphics data generating device wherein said graphics data generating device is a photographic device (col. 4, lines 59-67). However, he does not teach that said generation condition is a picture mode in said photographic device. In a similar field of endeavor, Takemura teaches that said generation condition is a picture mode in said photographic device (figs. 1-5; col. 7, line 8 – col. 8, line 21). In light of the teaching of Takemura, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the photographic device of Nakatsuka where the generation condition is a picture mode in order to provide a means for selecting a desired finish (Takemura, col. 3, lines 28-35).

Regarding **claims 15, 19, 27, 31, and 39**, each of these claims corresponds to apparatus claim 5. Therefore, apparatus claims 15, 19, 27, 31, and 39 are analyzed and rejected as previously discussed with respect to claim 5.

Allowable Subject Matter

10. **Claims 6-10 and 32-35** are allowed.

11. The following is a statement of reasons for the indication of allowable subject matter:

Claim 6 is allowed because the prior art does not teach or fairly suggest a graphics data generating device for generating graphics data that is related to a graphics processing control parameter designating a graphics processing condition for graphics data, said graphics data generating device comprising:

means for generating said graphics data;

means for designating a generation condition when said means for generating generates said graphics data;

means for storing a plurality of combinations, each combination composed of said generation condition and a plurality of said graphics processing control parameters;

means for acquiring from said means for storing said plurality of graphics processing control parameters for said designated generation condition; and

means for relating said generated graphics data to said plurality of acquired graphics processing control parameters, and outputting the related graphics data.

Claims 7-10 are allowed because they are each dependent on claim 6.

Claim 32 is allowed because the prior art does not teach or fairly suggest a graphics data generating device for generating graphics data that is related to graphics processing control information designating a graphics processing condition for graphics data, said graphics data generating device comprising:

means for generating said graphics data;

means for designating a generation condition when said means for generating generates said graphics data;

means for storing a plurality of sets of said graphics processing control information, the information specifying a graphics processing control parameter set to be used for image processing of said graphics data, under said generation condition;

means for acquiring from said means for storing said graphics processing control information for said designated generation condition; and

means for relating said generated graphics data to said acquired graphics processing control information, and outputting the related graphics data.

Claims 33-35 are allowed because they are each dependent on claim 32.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carramah J. Quiett whose telephone number is (571) 272-7316. The examiner can normally be reached on 8:00-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NgocYen Vu can be reached on (571) 272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJQ
March 6, 2006

NGOC-YEN VU
SUPERVISORY PATENT EXAMINER